

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: _____

Meeting Type: Regular

Meeting Date: Dec 3, 2015

Action Requested By: Engineering

Agenda Type: Resolution

Subject Matter:

Cooperative Maintenance of Public Right-of-Way Agreement

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into an Agreement with the Alabama Department of Transportation for a Cooperative Maintenance of Public Right-of-Way for new curb inlet in the State Right-of-Way along Alabama Highway 1 from Milepost 333.144 R to Milepost 333.146 R, and to Maintain 81 linear feet of existing 15" RCP downstream of new drainage inlet, Project No. 71-16-SP08

Note: If amendment, Please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Maintenance Agreement between the City and ALDOT for the proposed drainage infrastructure improvements at the intersection of Governors Drive and Lowery Boulevard. No city funds involved.

Associated Cost: _____ Budgeted Item: _____

MAYOR RECOMMENDS OR CONCURS: _____

Department Head: Kathy Mc

Date: 11-19-15

BP
pink
nc

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: **Engineering**

Council Meeting Date: **12/3/2015**

Department Contact: **Lynn Majors**

Phone # **256-427-5201**

Contract or Agreement: **Cooperative Maintenance Agreement**

Document Name: **ALDOT Maint Agmt AL Hwy 1 Project No. 71-16-SP08**

City Obligation Amount: **N/A**

Total Project Budget: **N/A**

Uncommitted Account Balance: **N/A**

Account Number: **N/A. No City Funds Involved.**

Procurement Agreements

Not Applicable	Not Applicable
-----------------------	-----------------------

Grant-Funded Agreements

Not Applicable	Grant Name:
-----------------------	--------------------

Department	Signature	Date
1) Originating	<i>Kathy Marti</i>	<i>11-19-15</i>
2) Legal	<i>Mary Clate</i>	<i>11-20-15</i>
3) Finance <i>CC</i>	<i>[Signature]</i>	<i>11/24/15</i>
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

RESOLUTION NO. 15-

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and is hereby authorized, to enter into an agreement with the State of Alabama Department of Transportation for a Cooperative Maintenance of Public Right-of-Way for new curb inlet in the State Right-of-Way along Alabama Highway 1 from Milepost 333.144 R to Milepost 333.146 R, and to Maintain 81 linear feet of existing 15" RCP downstream of new drainage inlet, Project No. 71-16-SP08, in Huntsville, Alabama, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that document attached hereto and identified as "Agreement with the State of Alabama Department of Transportation for a Cooperative Maintenance of Public Right-of-Way for the new curb inlet in the State Right-of-Way along Alabama Highway 1 from Milepost 333.144 R to Milepost 333.146 R, and to maintain 81 linear feet of existing 15" RCP downstream of new drainage inlet, Project No. 71-16-SP08" consisting of a total of four (4) pages and the date of December 3, 2015, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, and an executed copy of said document being permanently kept on file in the Office of the City Clerk of the City of Huntsville, Alabama.

ADOPTED this the 3rd day of December, 2015.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 3rd day of December, 2015.

Mayor of the City of Huntsville,
Alabama

**ALABAMA DEPARTMENT OF TRANSPORTATION
AGREEMENT FOR THE COOPERATIVE MAINTENANCE
OF PUBLIC RIGHT OF WAY**

County Madison Permit Number _____
Milepost 333.146 R Route Number Alabama Hwy No. 1
Resolution Number _____

Associated Permits and/or Documents BM-111, MB-05, MB-07, Signal Layout, Drainage Letter, Access
Management Study, Traffic Signal Layout

THIS AGREEMENT, entered into this the ____ day of _____, 20____, by and between the Alabama Department of Transportation acting by and through its Transportation Director hereinafter referred to as ALDOT and City of Huntsville, in an effort to provide maintenance within the city limits of Huntsville along Route AL Hwy No. 1, the City of Huntsville agrees to maintain New Curb Inlet and 81 linear feet of existing 15" RCP downstream of new drainage inlet

_____ in the ALDOT right-of-way from milepost 333.144 R to 333.146 R. All maintenance shall conform to standards and specifications of ALDOT and the ALDOT approved version of the national Manual on Uniform Traffic Control Devices. Any future proposed work not described in this agreement or any associated agreements shall be requested by permit and is subject to approval by ALDOT. It is furthermore understood by the parties that the map attached hereto describes the current situation. The parties understand that this agreement and the plans attached hereto may be amended by the mutual agreement of the parties.

In accepting the above, ALDOT and APPLICANT agree to do the following:

1. Adequate sight distances must be maintained for maximum public safety; otherwise ALDOT reserves the right to remedy this situation in the most expedient manner.
2. ALDOT is not responsible for the safety of the individual involved or taking part in this work during maintenance operations.

President of the City Council of the City
of Huntsville, AL
Date: December 3, 2015

3. If ALDOT construction (repair of drainage and traffic structures, crossovers and other minor construction) is done in the subject area, it will be the responsibility of ALDOT to establish a stand of vegetative cover if deemed necessary by ALDOT and then the APPLICANT'S responsibility to maintain the vegetative cover as stipulated herein. In the event of major construction in the subject area, this Agreement shall be voided at a time designated by ALDOT.

4. Any proposed work, whether being performed or accomplished, that is described within or with any associated proposal is subject to the inspection and approval of ALDOT. Should the APPLICANT fail to conform to the provisions of the Agreement, such failure shall be grounds for termination and shall be cause for ALDOT to assume the maintenance at the APPLICANT's expense and/or remove the work and restore the right-of-way to ALDOT's discretion at the expense of the APPLICANT. The APPLICANT agrees to pay ALDOT all such costs as a result. ALDOT shall provide thirty (30) days notice, in writing, or any termination.

5. A copy of this Agreement must be kept by all parties that sign the Agreement. The State of Alabama does not grant APPLICANT any right, title, or claim on any highway right-of-way.

6. The APPLICANT agrees to store no equipment, materials, or debris of any kind on the shoulders of pavement and in the case of multi-lane highways, in the median strips. The pavement will be kept free from waste and equipment.

7. This Agreement is executed with the understanding that it is not valid until the APPLICANT has complied with all existing ordinances, laws and zoning boards that have jurisdiction in the county, city, or municipality.

8. The APPLICANT may perform any herbicide treatments necessary to maintain the appearance of the roadside with written permission from ALDOT. This includes but is not limited to concrete islands, median barriers, curbs, and other structures. Herbicide treatments shall conform to the guidelines found in the current edition of *Chapter IV: ALDOT Herbicide Treatment Recommendations*. Treatments shall be applied by an individual in possession of a current Commercial Applicator Permit (ROW category) issued by the Alabama Department of Agriculture & Industries. Daily application reports shall be made available for review by ALDOT upon request.

9. Indemnification Provisions. Please check the appropriate type of applicant:

By entering into this agreement, the APPLICANT is not an agent of the State, its officers, employees, agents or assigns. The APPLICANT is an independent entity from the State and nothing in this agreement creates an agency relationship between the parties.

_____ If the applicant is an incorporated municipality or gas district then:
Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), the APPLICANT shall defend, indemnify, and hold harmless the State of Alabama, ALDOT, its officers, officials, agents, servants, and employees, in both their official and individual capacities, from and against (1) claims, damages, losses, and expenses, including but not limited to attorneys' fees arising out of, connected with, resulting from or related to the work performed by the APPLICANT, or its officers, employees, contracts, agents or assigns (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the APPLICANT pursuant to the terms of this Agreement, or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but not limited to attorneys' fees,

caused by the negligent, careless or unskillful acts of the APPLICANT its agents, servants, representatives or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the APPLICANT, its agents, servants, representatives or employees, or anyone for whose acts the APPLICANT may be liable.

_____ If the applicant is county government then:

The APPLICANT shall be responsible at all times for all of the work performed under this agreement and, as provided in Ala. Code § 11-93-2 (1975), the APPLICANT shall protect, defend, indemnify and hold harmless the State of Alabama, The Alabama Department of Transportation, its officials, officers, and employees, in both their official and individual capacities, and their agents and/or assigns.

For all claims not subject to Ala. Code § 11-93-2 (1975), the APPLICANT shall indemnify and hold harmless the State of Alabama, the Alabama Department of Transportation, the officials, officers, and employees, in both their official and individual capacities, and their agents and/or assigns from and against any and all action, damages, claims, loss, liabilities, attorney's fees or expense whatsoever or any amount paid in compromise thereof arising out of, connected with, or related to the (1) work performed under this Agreement, (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the APPLICANT pursuant to the terms of this agreement, or (3) misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the APPLICANT, its agents, servants, representatives, employees or assigns.

_____ If the applicant is a state governmental agency or institution then:

The APPLICANT shall be responsible for damage to life and property due to activities of the APPLICANT of employees of APPLICANT in connection with the work or services under this Agreement. The APPLICANT agrees that its contractors, subcontractors, agents, servants, vendors or employees of APPLICANT shall possess the experience, knowledge and skill necessary to perform the particular duties required or necessary under this Agreement. The APPLICANT is a state institution and is limited by the Alabama Constitution in its ability to indemnify and hold harmless another entity. The APPLICANT maintains self-insurance coverage applicable to the negligent acts and omissions of its officers and employees, which occur within the scope of their employment by the APPLICANT. The APPLICANT has no insurance coverage applicable to third-party acts, omissions or claims, and can undertake no obligation that might create a debt on the State Treasury. The APPLICANT agrees ALDOT shall not be responsible for the willful, deliberate, wanton or negligent acts of the APPLICANT, or its officials, employees, agents, servants, vendors, contractors or subcontractors. The APPLICANT shall require, its contractors and its subcontractors, agents, servants or vendors, as a term of its contract with the APPLICANT, to include ALDOT as an additional insured in any insurance policy providing coverage for the work to be performed pursuant to and under this Agreement and to provide the APPLICANT a copy of the insurance policy declaration sheet confirming the addition of ALDOT thereto.

10. The APPLICANT agrees to provide pruning and/or trimming of plants in any existing or newly landscaped areas.

11. No new installation or removal of plantings is allowed on the right-of-way under this agreement.

This Agreement is deemed to be executed on the date hereinabove set forth by the parties hereto in their respective names by those persons and officials thereunto duly authorized. Witness our hands and seals, this the _____ day of _____, 20_____.

Name of APPLICANT:

City of Huntsville

WITNESS:

BY _____
Name and Title Date

BY _____
Name and Title Date

THIS AGREEMENT HAS BEEN
LEGALLY REVIEWED AS TO
CONTENT AND FORM:

BY _____
Name and Title Date

256 427 5300

Telephone Number

Counsel – State of Alabama
Department of Transportation

RECOMMENDED FOR APPROVAL:

District Manager Date

Area Operations Engineer Date

Region Engineer Date

**APPROVED:
ALABAMA DEPARTMENT OF TRANSPORTATION
ACTING BY AND THROUGH ITS TRANSPORTATION
DIRECTOR**

By: _____
Maintenance / Region / Area Operations Engineer

Date: _____